

# **FIJI 2019 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Fiji is a constitutional republic. In November 2018 the country held general elections, which international observers deemed free, transparent, and credible. Josaia Voreqe (Frank) Bainimarama's Fiji First party won 27 of 51 seats in parliament, and he began a second four-year term as prime minister.

The Fiji Police Force maintains internal security. The Republic of Fiji Military Force (RFMF) is responsible for external security but may also have some domestic-security responsibilities in specific circumstances. Both report to the Ministry of Defense and National Security. Civilian authorities maintained effective control over the security forces.

Significant human rights issues included: restrictions on free expression, such as substantial interference with the right of peaceful assembly; and trafficking in persons.

The government investigated some security-force officials who committed abuses and prosecuted or punished officials who committed abuses elsewhere in the government; however, impunity was a problem in cases with political implications.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports the government or its agents committed arbitrary or unlawful killings.

On November 20, a court convicted a police officer of manslaughter in the November 2018 death of 26-year-old Josua Lalauvaki, and imposed a prison sentence of four years, 10 months and 12 days. Another officer was acquitted in the case. The officers allegedly assaulted Lalauvaki during an altercation outside a Suva nightclub in September 2018. After police released him, Lalauvaki died in the hospital of injuries sustained from the beating.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit torture, forced medical treatment, and degrading treatment or punishment. The Public Order Act (POA), however, authorizes the government to use whatever force it deems necessary to enforce public order. There were reports security forces abused persons during the year.

The police Ethical Standards Unit is responsible for investigating complaints of police misconduct. As of February, the unit was investigating 11 cases of police misconduct.

Three police officers were suspended and brought to court on November 22 and charged with causing grievous harm to 27-year-old Manasa Rayasidamu. Rayasidamu alleged that while in police custody on November 4, the three police officers hit his ankles with a cement block, rendering him immobile, before pouring hot water on his back.

On July 20, police officers allegedly beat Pelasio Tamanikoula while arresting him in Labasa, northern Fiji. Tamanikoula was later rushed to the hospital after suffering seizures from injuries sustained while in police custody. The incident prompted human rights groups to renew their call for an end to police brutality.

A court martial remained pending for four military officers charged with the sexual assault and rape of a female military officer in March 2018.

The investigation into the death of Vikram Nand, found dead in a cell at a local police station in Valelevu in 2017, remained pending, as did an investigation initiated in 2017 into reports two police officers beat and threw two persons from a moving bus (which was captured on video).

To increase respect for human rights by security forces, the Fiji Human Rights and Anti-Discrimination Commission (FHRADC), international organizations, and local nongovernmental organizations (NGOs) conducted a number of human rights training courses with law enforcers.

Impunity remained a problem in some politically connected cases. The constitution and POA provide immunity from prosecution for members of the

security forces for any deaths or injuries arising from the use of force deemed necessary to enforce public order. The constitution provides immunity for the president, prime minister, members of the cabinet, and security forces for actions taken relating to the 2006 coup, the 2009 abrogation of the 1997 constitution, and the 2000 suppression of a mutiny at military headquarters.

### **Prison and Detention Center Conditions**

The national prison system remained overcrowded, with deteriorating infrastructure and complaints about inadequate essential services.

Physical Conditions: Prisons were overcrowded. In September 2018, according to an Asian and Pacific Conference of Correctional Administrators report, prisons in the country had a capacity of 1,916 and a population of 2,643. There were insufficient beds, inadequate sanitation, and a shortage of other necessities. Authorities generally separated pretrial detainees and convicted prisoners at shared facilities, although in some cases authorities held them together. Prison facilities reportedly were unsuitable for aged inmates or those with physical and mental disabilities.

In July authorities investigated an alleged assault on a 20-year-old remand inmate by corrections officers. The investigation remained ongoing as of November.

Government officials reported one inmate death, reportedly from suicide, during the year. Investigation into the death continued as of November.

Administration: Prisoners may submit complaints to the FHRADC or judicial authorities, which investigated several complaints during the year. Although the law prohibits authorities from reviewing, censoring, or seizing prisoner letters to the judiciary and the FHRADC, authorities routinely reviewed such letters and, in most cases, seized them. Authorities did not investigate or document credible allegations of inhuman conditions in a publicly accessible manner.

Detainees have the right to observe their religion but may not change religions or belief without consultation with prison staff.

Independent Monitoring: The International Committee of the Red Cross, the Office of the United Nations High Commissioner for Human Rights, and the FHRADC visited official detention facilities and interviewed inmates; prison authorities permitted such visits without third parties present.

#### **d. Arbitrary Arrest or Detention**

The Public Order Act (POA) exempts normal due process protections where “necessary to enforce public order.” Persons detained under the provisions of the POA can be held for up to 16 days without being charged, and the POA explicitly disallows any judicial recourse (including habeas corpus review) for harms suffered when the government is acting under the provisions of the POA. There are also provisions that allow for warrantless searches, restriction of movement (specifically international travel/immigration/emigration), and permit requirements for political meetings. Authorities have used the POA’s wide provisions to restrict freedom of expression and of association.

The constitution prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, unless the person is detained under the POA. The government generally observed these requirements. The law details procedures for lawful arrest. The POA authorizes security forces to detain a person for a maximum 16 days before bringing charges; otherwise, the minister of defense and national security must authorize detention without charge exceeding 48 hours.

#### **Arrest Procedures and Treatment of Detainees**

The constitution provides that detained persons be charged and brought to court within 48 hours of arrest or as soon as practicable thereafter, and that right was generally respected. Police officers may arrest persons without a warrant.

Police also conduct arrests in response to warrants issued by magistrates and judges. Police may detain persons under the POA for a maximum of 16 days, after which authorities must charge or release persons in custody. There is no legal requirement to bring to court persons detained under provisions of the POA for judicial review of the grounds for their detention, unless authorities charge them with an offense. The POA prohibits any court, tribunal, or other body from reviewing a detention under POA provisions.

The law provides for bail for accused persons. Under the law both police and the courts may grant bail. Although there is a legal presumption in favor of granting bail, the prosecution may object, and often did so in cases where the accused was appealing a conviction or had previously breached bail conditions. An individual must apply for bail by a motion and affidavit that require the services of a lawyer.

Authorities generally allowed detainees prompt access to counsel and family members. The Legal Aid Commission provided counsel to some indigent defendants in criminal cases, a service supplemented by voluntary services from private attorneys. The “First Hour Procedure” requires police to provide every suspect with legal-aid assistance within the first hour of arrest. In addition, police are required to record the “caution interview” with each suspect before questioning, to confirm police informed all suspects of their constitutional rights, and to confirm whether suspects suffered any abuse by police prior to questioning.

Arbitrary Arrest: The RFMF investigated claims that two soldiers briefly detained and questioned a 16-year-old boy for allegedly posting an image on social media containing vulgar language directed at Prime Minister Bainimarama, written by someone else on the back of a bus. The Fiji Police later made a statement defending the soldiers’ detention of the boy, stating it was lawful and in the interest of national security and defense. Authorities released the boy without charge.

Pretrial Detention: Pretrial detainees made up 21 percent of the prison population, attributed to a continuing pattern of courts refusing bail and resource shortages. A shortage of prosecutors and judges contributed to slow processing of cases. Consequently, some defendants faced lengthy pretrial detention.

#### **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary and there were signs of movement toward such independence, with a May 2018 high court acquittal of three *Fiji Times* staff members on sedition charges, a November 2018 verdict denying the government’s effort to block the opposition leader from running against Prime Minister Bainimarama, and judicial adherence to normal procedures in handling the government’s appeal of the *Fiji Times* case during the year. Investigations into several past allegations of police abuse, however, remained pending, including a 2016 complaint by farmer Alipate Sadranu that security forces beat him and 10 other men whom they apprehended for unlawful cultivation of illicit drugs and the 2015 alleged abuse of Sakiusa Niulala by police.

The president appoints or removes from office the judges of the Supreme Court, justices of appeal, and judges of the high court on the recommendation of the Judicial Service Commission in consultation with the attorney general. The commission, following consultations with the attorney general, may appoint magistrates, masters of the high court, the chief registrar, and other judicial

officers. The constitution and law provide for a variety of restrictions on the jurisdiction of the courts. A 2012 amendment removed the courts' jurisdiction to hear challenges to government decisions on judicial restructuring, terms and conditions of remuneration for the judiciary, and terminated court cases. Various other decrees contained similar clauses limiting the jurisdiction of the courts on decisions made by the cabinet, ministers, or government departments.

## **Trial Procedures**

In most cases defendants have the right to a fair public trial, and the court system generally enforced this right.

Defendants generally have a presumption of innocence; they may not be compelled to testify or confess guilt. They may present witnesses and evidence on their own behalf and confront witnesses against them. Defendants have the right to be informed promptly and in detail of the charges against them and be present at their trial, with free interpretation if necessary, through all appeals. Authorities also must accord them adequate time and facilities to prepare a defense. In most cases defendants have the right to counsel, but some reportedly were unaware of their rights when detained or interviewed and, therefore, often did not ask for legal counsel. The Legal Aid Commission, supplemented by voluntary services of private attorneys, provided free counsel to some indigent defendants in criminal cases. The right of appeal exists, but procedural delays often hampered this right. The constitution allows for limitations on the right to public trial and stipulates that trials should "begin and conclude without unreasonable delay."

## **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

## **Civil Judicial Procedures and Remedies**

Individuals and organizations may seek civil remedies for human rights violations through domestic courts.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, but the POA permits military personnel to search persons and premises without a warrant from a court and to take

photographs, fingerprints, and measurements of any person. Police and military officers also may enter private premises to break up any meeting considered unlawful. On May 1, police entered the Fiji Trades Union Congress (FTUC) Suva office, removed equipment, and detained some Fiji Water Authority workers who had gathered there to protest the termination of their contracts. Police later released the workers without charging them.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, but it grants the government authority to restrict these rights for a broad array of reasons. These include preventing hate speech and insurrection; maintaining national security, public order, public safety, public morality, public health, and the orderly conduct of elections; protecting the reputation, privacy, dignity, and rights of other persons; enforcing media standards; and regulating the conduct of media organizations. The POA also gives the government power to detain persons on suspicion of “endangering public safety” and to “preserve the peace.” The authorities continue to use the wide provisions in this law to restrict freedom of expression. The law on media prohibits “irresponsible reporting” and provides for government censorship of media.

Freedom of Expression: The law includes criticism of the government in its definition of the crime of sedition. This includes statements made in other countries by any person.

Press and Media, Including Online Media: Independent media were somewhat active; however, journalists practiced self-censorship on sensitive political or communal topics because of restrictions in the law and monitoring by the Media Industry Development Authority (MIDA). The opposition and other critics of the government accused the government of using state power to silence critics.

In July the appellate court reviewed an appeal brought by the prosecution in the case of three staff members of the *Fiji Times*, including the editor in chief, who were acquitted on sedition charges in May 2018; a decision on the appeal remains pending. Despite the journalists’ acquittal, media observers and human rights activists expressed concern the long investigation and trial had served to stifle free speech. The three staff were charged with sedition for the 2016 publication of a letter to the editor in the *Fiji Times* indigenous-language newspaper *Nai Lalakai*.

Violence and Harassment: On April 3, police detained three journalists from New Zealand's *Newsroom* agency who were investigating allegations of environmental damage caused by a Chinese developer, Freesoul Real Estate, on Fiji's Malolo Island. Police released the journalists 13 hours later, without charge. Prime Minister Bainimarama personally delivered a public apology for the officers' actions, while Commissioner of Police Sitiveni Qiliho clarified in the media that the detention was "an isolated incident by a small group of rogue police officers."

Censorship or Content Restrictions: The media law authorizes the government to censor all news stories before broadcast or publication. Although the government ceased prior censorship in 2012, the law remains on the books, and journalists and media organizations continued to practice varying degrees of self-censorship citing a fear of prosecution. Despite this, media published opinion articles by academics and commentators critical of the government.

By law, directors and 90 percent of shareholders in local media must be citizens and permanently reside in the country. MIDA is responsible for enforcing these provisions and has power to investigate media outlets for alleged violations, and the power to search facilities and seize equipment.

The code of ethics in the law requires that media publish balanced material. It obligates media to give any individual or organization an opportunity to reply to comments or provide materials for publication. Journalists reported this requirement did not restrict reporting as much as in past years.

The law on television requires television station operators to conform to the media law's code of ethics.

Libel/Slander Laws: Libel, slander and defamation are treated as civil matters under the law. The constitution, however, includes protecting the reputation of persons as a permissible limitation to freedom of expression, including of the press. Some measure of this constitutional provision was enacted via the 2018 Online Safety Act. Authorities have used this act and the commission established in January under this act to restrict public discussion, establishing a de facto form of criminal libel with imprisonment penalties (see Internet Freedom, below).

Court decisions on two separate 2018 defamation lawsuits, the first brought by the prime minister and attorney general and the second by supervisor of elections,



charging opposition critics with posting defamatory remarks on social media remained pending at year's end.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content; however, there were some reports the government monitored private online communications without legal authority.

The purpose of the 2018 Online Safety Act, according to the government, is to protect minors from offensive online behavior, cybercrime, and cyber bullying. The law penalized offenders with a maximum fine of FJD 20,000 (\$9,140) and a maximum five years' imprisonment for posting an electronic communication that causes harm to a person. Critics, however, including rights groups and youth and women's organizations, warned it was a potential "trojan horse" for internet censorship and punishment of online dissent. Critics' fears worsened when, on January 2, the first commissioner for online safety publicly told media: "If you have nothing nice to say, don't say anything at all." After enacting the law, the government filed several defamation lawsuits against political opponents for posting comments critical of the government on social media.

In May the court sentenced former Prime Minister Mahendra Chaudhry's son, Rajendra Chaudhry, in absentia to 15 months' imprisonment and a FJD 50,000 (\$22,900) fine for contempt of court after he failed to appear for a civil defamation case brought against him by the attorney general, who claimed Chaudhry's 2018 *Facebook* posts defamed the Fiji judicial system, chief justice and chief registrar, and undermined public confidence in the administration of justice in the country.

All telephone and internet users must register their personal details with telephone and internet providers, including name, birth date, home address, left thumbprint, and photographic identification. The law imposes a maximum fine of FJD 100,000 (\$45,700) on providers who continued to provide services to unregistered users and a maximum fine of FJD 10,000 (\$4,570) on users who did not update their registration information as required.

### **Academic Freedom and Cultural Events**

The constitution provides for academic freedom, although contract regulations of the University of the South Pacific effectively restricted most university employees from running for or holding public office or holding an official position with any

political party. Persons who enter the country on tourist visas to conduct research must notify and seek permission from the government.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association; however, the government restricted these freedoms in some cases.

### **Freedom of Peaceful Assembly**

The constitution provides for freedom of peaceful assembly but allows the government to limit this right in the interests of national security, public safety, public order, public morality, public health, and the orderly conduct of elections. The constitution also allows the government to limit freedom of assembly to protect the rights of others and imposes restrictions on public officials' rights to freedom of assembly.

The POA allows authorities to use whatever force necessary to prohibit or disperse public and private meetings after “due warning,” in order to preserve public order.

Although event organizers said authorities were sometimes very slow to issue permits, they granted permits for public rallies in support of the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community and the 16 Days of Activism against Domestic Violence Campaign. Authorities, however, denied permits for public-service unions and the political opposition to protest.

Executive members of the Fijian Teachers Association (FTA), an affiliate member of FTUC, claimed police harassed and threatened them with “further action” over plans to hold a march during an Asian Development Bank (ADB) summit to be hosted by Fiji from May 1-5, and also if they failed to turn up for meetings at the police office. The Ministry of Education also threatened teachers with further reprisals, including legal action, if they participated in a planned May 3 nationwide strike (see section 7, below).

On June 17, police detained the president of the Fiji National Farmers Union (NFU), Surendra Lal, for questioning regarding alleged incitement and threatening to disrupt the harvesting of sugar cane. After two days Lal was released without being charged. According to an NFU statement, the detention came when growers were protesting low cane payments, a low forecast price for sugar, and the

imposition of cane-cartage weight restrictions for trucks, which the union claimed would significantly add to transport costs.

On October 8, police rejected a request from the opposition National Federation Party (NFP) for a permit to march in Suva on October 10, Fiji's national day. The police claimed the party failed to fulfill filing requirements. The proposed march was to protest the delayed police investigation into an alleged assault on NFP President Pio Tikoduadua by Prime Minister Bainimarama on August 9 (see section 3, below).

### **Freedom of Association**

The constitution provides for freedom of association but limits this right in the interests of national security, public order, and morality and also for the orderly conduct of elections. The government generally did not restrict membership in NGOs, professional associations, and other private organizations.

On May 2, police raided the FTUC's headquarters without a warrant and confiscated documents, laptops, and other equipment belonging to the union.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

Under the POA, to enforce public order, the government may restrict freedom of internal movement, foreign travel, emigration, and repatriation.

In-country Movement: There were no reports the government restricted any person's in-country movement during the year.

Exile: The government used re-entry bans as a de facto means of exiling critics. As in past years, opposition parties called on the government to lift re-entry bans on all existing and former citizens, including historian and former citizen Brij Lal, a critic of the government living in Australia. The Immigration Department has stated Lal could reapply for re-entry into the country; however, the ban reportedly remained in place as of November. Lal was deported from Fiji in 2009 by the interim government for activities "prejudicial to the peace, defense, and public

security of the Government of Fiji.” Lal’s wife, Padma, also an academic, was stopped from re-entering the country in 2010.

#### **e. Internally Displaced Persons**

Not applicable.

#### **f. Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees. The Office of the UN High Commissioner for Refugees (UNHCR) provides assistance to officials to undertake refugee-status determination procedures.

#### **g. Stateless Persons**

Not applicable.

### **Section 3. Freedom to Participate in the Political Process**

The constitution and electoral law provide citizens the ability to choose their government in free and fair periodic elections generally held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: In November 2018 voters elected 51 members of parliament. The governing Fiji First party won 27 seats, and Josaia Voreqe (Frank) Bainimarama was sworn in as prime minister for a second four-year term. In presenting its conclusions, the Australian- and Indonesian-led Multinational Observer Group stated: “Conditions supported Fijians exercising their right to vote freely. The 2018 process was transparent and credible overall, and the outcome broadly represented the will of Fijian voters.”

Political Parties and Political Participation: The constitution provides for the right to form and join political parties, to campaign for political parties or a cause, to register as a voter, to vote by secret ballot in elections or referendums, to run for public office, and to hold that office. Nevertheless, the government may prescribe eligibility requirements for voters, candidates, political party officials, and holders of public office.

The POA requires permits for political meetings in both public and private venues, and these were granted in an open, nonpartisan, fair way.

The law requires that parties submit applications, which must include 5,000 members' signatures, for registration. The law allows deregistration of political parties for any election offense and requires trade union leaders to resign their positions before running as candidates.

The electoral law restricts any person, entity, or organization from receiving funding from foreign governments, intergovernmental organizations, or NGOs, and forbids multilateral agencies from conducting or participating in any campaign, including meetings, debates, panel discussions, interviews, publication of materials, or any public forum discussing the elections. Maximum penalties for violations of the law include 10 years' imprisonment, a fine of JD 50,000 (\$22,900), or both. The law allows universities to hold panel discussions and organize inclusive public forums.

The law also reduces the opposition's power and ability to introduce petitions in parliament. Any petition tabled in parliament requires the support of a minimum of 20 parliamentarians (40 percent) before members may present it for debate.

Opposition National Federation Party parliamentarian Pio Tikoduadua claimed the prime minister had assaulted him on August 9 outside parliament. Video footage of the incident, widely viewed on the internet, showed Prime Minister Bainimarama briefly grabbing Tikoduadua by the lapel and shoving him. A parliamentary privileges committee cleared the prime minister of assault in September but found that the two men breached parliamentary rules by insulting each other and ordered they apologize or face a six-month suspension from parliament. Prime Minister Bainimarama apologized, but Tikoduadua refused and was suspended from parliament for six months on September 6. A police investigation into the alleged assault by the prime minister continued at year's end.

Participation of Women and Minorities: No law limits participation of women or members of minorities in the political process, and they did participate. Cultural attitudes about gender roles restricted political participation by most indigenous women. Indo-Fijians, who accounted for 36 percent of the population, were underrepresented in government and the military, although they held six of 13 cabinet minister positions and six of 10 assistant-minister positions.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but the government did not implement the law effectively, and officials sometimes engaged in corrupt practices with impunity. There were numerous reports of government corruption during the year.

Corruption: The Fiji Independent Commission against Corruption (FICAC) reports directly to the president and investigates public agencies and officials, including police. Government measures to combat corruption within the bureaucracy, including FICAC public-service announcements encouraging citizens to report corrupt government activities, had some effect on systemic corruption. Media published articles on FICAC investigations of abuse of office, and anonymous blogs reported on some government corruption.

The government adequately funded FICAC, but some observers questioned its independence and viewed some of its high-profile prosecutions as politically motivated.

The Office of the Director of Public Prosecutions charged two police officers with fraud.

Corruption cases often proceeded slowly. In October the trial of former corrections chief lieutenant colonel Ifereimi Vasu began. Authorities dismissed him in 2015 for abuse of office related to his alleged misuse of a prison minimart.

Financial Disclosure: No law requires income and asset disclosure by appointed or elected officials. The law, however, requires financial disclosures by candidates running for election and party officials. In May 2018 FICAC charged Sitiveni Rabuka, leader of the opposition Social Democratic Party, with making a false declaration of his assets, income, and liabilities. The court acquitted Rabuka of all charges in October 2018. The appellate court dismissed a FICAC appeal of the ruling a week later.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on

human rights cases. Government officials were somewhat cooperative and responsive to their views.

The law constrained NGO operations in several ways. For example, the law includes criticism of the government in its definition of sedition.

A women's advocate publicly alleged police called her repeatedly before a planned meeting for civil society organizations with visiting UN Secretary-General Antonio Guterres, demanding she reveal what she would discuss with Guterres and asking who else would attend the meeting.

Government Human Rights Bodies: The constitution establishes the FHRADC, and it continued to receive reports of human rights violations lodged by citizens. The constitution prohibits the FHRADC from investigating cases filed by individuals and organizations relating to the 2006 coup and the 2009 abrogation of the 1997 constitution. While the FHRADC routinely worked with the government to improve certain human rights matters (such as prisoner treatment), observers reported it generally declined to address politically sensitive human rights matters and typically took the government's side in public statements, leading observers to assess the FHRADC as progovernment.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: The law recognizes rape, including spousal rape, as a crime and provides for a maximum punishment of life imprisonment for rape. The law recognizes spousal rape as a specific offense. Rape (including spousal rape), domestic abuse, incest, and sexual harassment were significant problems. As of June, the Fiji Women's Crisis Center recorded 295 domestic-violence cases; the center reported that eight women died in domestic-violence incidents as of September.

The law defines domestic violence as a specific offense. Police practice a "no-drop" policy, whereby they are required to pursue investigations of domestic violence cases even if a victim later withdraws the accusation. Nonetheless, women's organizations reported police did not consistently follow this policy. Courts dismissed some cases of domestic abuse and incest or gave perpetrators light sentences. Traditional and religious practices of reconciliation between aggrieved parties in both indigenous and Indo-Fijian communities were sometimes

utilized to mitigate sentences for domestic violence. In some cases, authorities released offenders without a conviction on condition they maintained good behavior.

Sexual Harassment: The law prohibits sexual harassment, and the government used criminal law against “indecent assaults on females,” which prohibits offending the modesty of women, to prosecute sexual harassment cases. Sexual harassment was a significant problem.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

Discrimination: Women have full rights of inheritance and property ownership by law, but local authorities often excluded them from the decision-making process on disposition of indigenous communal land, which constituted more than 80 percent of all land. Women have the right to a share in the distribution of indigenous land lease proceeds, but authorities seldom recognized this right. Women have the same rights and status as men under family law and in the judicial system. Nonetheless, women and children had difficulty obtaining protection orders, and police enforcement of them, in domestic-violence cases.

Although the law prohibits gender-based discrimination and requires equal pay for equal work, employers generally paid women less than men for similar work (see section 7.d.).

## **Children**

Birth Registration: Citizenship is derived both from birth within the country and through one’s parents. Parents generally registered births promptly.

Education: Education is compulsory until age 15, but the law does not provide for free education. The government nonetheless as a matter of policy provides for free education.

Child Abuse: Corporal punishment was common in schools, despite a Ministry of Education policy forbidding it in the classroom. Increasing urbanization, overcrowding, and the breakdown of traditional community and extended-family structures put children at risk for abuse and appeared to be contributing factors to a child’s chance of exploitation for commercial sex. Reports indicated the number of child-abuse cases in the country increased and more children sought shelter at



state-funded homes. The government continued its public-awareness campaign against child abuse.

Early and Forced Marriage: The legal minimum age for marriage is 18. Some NGOs reported that, especially in rural areas, girls often married at or before age 18, preventing them from completing their secondary-school education. In indigenous villages, girls younger than age 18 who became pregnant could live as common-law wives with their child's father after the man presented a traditional apology to the girl's family, thereby avoiding the filing of a complaint to police by the family. The girls frequently married the fathers as soon as legally permissible.

Sexual Exploitation of Children: Commercial sexual exploitation of children continued. It is an offense for any person to buy or hire a child younger than age 18 for sex, exploitation in prostitution, or other unlawful purpose; the offense is punishable by a maximum 12 years' imprisonment. No prosecutions or convictions for trafficking of children occurred during the year.

It is an offense for a householder or innkeeper to allow commercial sexual exploitation of children in his or her premises. There were no known prosecutions or convictions for such offenses during the year.

Some high-school-age children and homeless and jobless youth were trafficked for commercial sex during the year, and there were reports of child sex tourism in tourist centers, such as Nadi and Savusavu. Commercial sexual exploitation of children was perpetuated by family members, taxi drivers, foreign tourists, businessmen, and crew members on foreign fishing vessels. The NGO Pacific Dialogue and the International Labor Organization claimed to have received reports of children engaging in organized prostitution, including being advertised online.

The minimum age for consensual sex is 16. The court of appeals has ruled that 10 years is the minimum appropriate sentence for child rape, but police often charged defendants with "defilement" rather than rape because defilement was easier to prove in court. Defilement or unlawful carnal knowledge of a child younger than age 13 has a maximum penalty of life imprisonment, while the maximum penalty for defilement of a child ages 13 to 15, or of a person with intellectual disabilities, is 10 years' imprisonment.

Child pornography is illegal. The maximum penalty is 14 years in prison, a fine of FJD 25,000 (\$11,400), or both for a first offense; and life imprisonment, a

maximum fine of FJD 50,000 (\$22,900), or both for a repeat offense, and the confiscation of any equipment used in the commission of the crime.

The law requires mandatory reporting to police by teachers and health and social-welfare workers of any incident of child abuse.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html/>.

### **Anti-Semitism**

There was a small Jewish community composed primarily of foreign residents. There were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

Discrimination against persons with disabilities is illegal. The constitution or laws address the right of persons with disabilities to reasonable access to all places, public transport, and information, as well as the rights to use braille or sign language and to reasonable access to accommodative materials and devices related to the disability; the law, however, does not further define "reasonable." Moreover, the constitution provides that the law may limit these rights "as necessary." Public-health regulations provide penalties for noncompliance, but there was minimal enabling legislation on accessibility for persons with disabilities, and there was little or no enforcement of laws protecting them.

Building regulations require new public buildings to be accessible to persons with disabilities, but only a few buildings met this requirement. By law all new office spaces must be accessible to persons with disabilities. Persons with disabilities continued to face employment discrimination (see section 7.d.). There were no government programs to improve access to information and communications for persons with disabilities, and persons with disabilities, in particular those with

hearing or vision disabilities, had difficulty accessing public information. Parliament continued to televise its sessions in sign language to improve access for persons with hearing disabilities.

There were a number of separate schools offering primary education for persons with physical, intellectual, and sensory disabilities; however, cost and location limited access. Some students attended mainstream primary schools, and the nongovernmental Early Intervention Center monitored them. Opportunities were very limited for secondary school or higher education for persons with disabilities.

The law stipulates that the community, public-health, and general-health systems provide treatment for persons with mental and intellectual disabilities, although families generally supported persons with such disabilities at home. Institutionalization of persons with more significant mental disabilities was in a single, underfunded public facility in Suva.

The Fijian Elections Office continued to maintain a website accessible to the disability community, including text-to-speech capability, large type, and an inverted color scheme. The Fiji National Council for Disabled Persons, a government-funded statutory body, worked to protect the rights of persons with disabilities. The office implemented new procedures to facilitate the voting process for the November 2018 election for voters with disabilities.

### **National/Racial/Ethnic Minorities**

Tension between indigenous Fijians and the Indo-Fijian minority was a longstanding problem. As of July 2017 indigenous Fijians comprised an estimated 58 percent of the population, Indo-Fijians 36 percent, and the remaining 6 percent was composed of Europeans, Chinese, Rotumans, and other Pacific-Islander communities. The government publicly stated its opposition to policies that provide “paramountcy” to the interests of indigenous Fijians and Rotumans, which it characterized as racist, and called for the elimination of discriminatory laws and practices that favor one race over another. Indo-Fijians dominated the commercial sector, indigenous Fijians dominate the security forces.

Land tenure remained highly sensitive and politicized. Indigenous Fijians communally held approximately 87 percent of all land; the government, 4 percent; and the remainder was freehold land held by private individuals or companies. Most cash-crop farmers were Indo-Fijians, the majority of whom were descendants of indentured laborers who came to the country during the British colonial era.

Almost all Indo-Fijian farmers must lease land from ethnic Fijian landowners. Many Indo-Fijians believed that their dependence on leased land constituted de facto discrimination against them. Many indigenous Fijian landowners believed the rental formulas prescribed in national land tenure legislation discriminated against them as the resource owners.

By law all indigenous Fijians are automatically registered upon birth into an official register of native landowners, the *Vola ni Kawa Bula*. The register also verifies access for those in it to indigenous communally owned lands and justifies titleholders within indigenous communities.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution prohibits discrimination on the grounds of sexual orientation, gender, and gender identity and expression. The law prohibits discrimination in employment based on sexual orientation. Nevertheless, the FHRADC reported complaints of discrimination against LGBTI persons in such areas as employment, housing, or access to health care.

The case against Saula Temo, arrested in November 2018 for the death of a transgender woman in a suspected hate crime in May 2018, continued at year's end.

Police continued investigations into the 2017 murder of another transgender woman, Iosefo Magnus.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides all workers the right to form and join independent unions, bargain collectively, and strike.

The law prohibits some forms of antiunion discrimination, including victimizing workers or firing a worker for union membership.

The law limits who may be an officer of a trade union, prohibiting noncitizens, for example, from serving as officers. The constitution prohibits union officers from

becoming members of parliament. The law also limits the ability of union officers to form or join political parties and exercise other political rights.

All unions must register with the government, which has discretionary power to refuse to register any union with a name that is “offensive or racially or ethnically discriminatory.” By law the government may cancel registration of existing unions in exceptional cases.

By law any trade union with seven or more members in an industry not designated as essential may enter into collective bargaining with an employer.

Unions may conduct secret strike ballots upon 14 days’ notice to the Registrar of Trade Unions and the strike may begin if 50 percent of all members who are entitled to vote approve the strike. Workers in essential services may strike but must also notify the Arbitration Court; and provide the category of workers who propose to strike, the starting date, and location of the strike. The law designates “essential service and industries” to include corporations engaged in finance, telecommunications, public-sector employees, mining, transport, and the airline industry. The definition of essential services and industries also includes all state-owned enterprises, statutory authorities, and local government authorities.

The law permits the minister of employment to declare a strike unlawful and refer the dispute to the Arbitration Court. If authorities refer the matter to the court, workers and strike leaders could face criminal charges if they persist in strike action.

The government did not enforce these rights. Penalties under law for violations of freedom of association and of collective bargaining agreements include fines and imprisonment; observers considered them sufficient to deter violations. Individuals, employers, and unions (on behalf of their members) may submit employment disputes and grievances alleging discrimination, unfair dismissal, sexual harassment, or certain other unfair labor practices to the Ministry of Employment, Productivity, and Industrial Relations (MEPIR).

Relations between the government and the two trade union umbrella bodies, the FTUC and the Fiji Islands Council of Trade Unions remained strained. The government took a number of steps against union officials and workers planning strikes and protest marches. In April, authorities harassed officials of the FTUC who planned to hold a May 3 nationwide strike and a May 4 protest in Nadi, the site of an ADB summit to be hosted by Fiji on May 1-5. Authorities denied

permits for the protests and deployed approximately 400 police officers to cover the summit, warning the union to desist from “causing any major incidents to undermine Fiji’s reputation.” On May 1, police arrested several workers of the Water Authority of Fiji (WAF) for breaching the POA after they had gathered to protest the termination of many WAF employees. Also arrested were FTUC General Secretary Felix Anthony, the secretaries of the FTA and nurses’ union, and an officer of the National Union of Workers. Anthony was held for 48 hours under the POA for organizing “unlawful gatherings” about the WAF dispute. On June 28, police again arrested Anthony, charging him with breach of the POA for false statements regarding the expiry of employment contracts for the WAF workers and other infractions. Anthony was later released on bail, but charges remain pending.

Trade unions reported additional antiunion government action, including unilateral voiding of collective-bargaining agreements with civil servants; lockouts and threats of retaliation in order to prevent unions from voting on industrial action; dismissal of union members; and a pattern of systematic harassment and intimidation.

## **b. Prohibition of Forced or Compulsory Labor**

The constitution and law prohibit all forms of forced or compulsory labor.

The Office of Labour Inspectorate, police, and Department of Immigration are responsible for enforcing the law, depending on the circumstances of the case. The government effectively enforced the law. The law prescribes penalties which were sufficient to deter violations.

There were reports forced labor occurred, including forced labor of children (see section 7.c.). Forced labor and trafficking of children occurred in the field of domestic work. Southeast Asians were subject to forced labor in manufacturing, agriculture, and fishing.

Also see the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

## **c. Prohibition of Child Labor and Minimum Age for Employment**

Education is compulsory until age 15; the Employment Relations Promulgation specifies that children ages 13 to 15 may be employed on a daily-wage basis in

nonindustrial “light” work not involving machinery, provided they return to their parents or guardian every night. The law sets a limit of eight hours per day that a child can work but does not include a list of permissible activities. Children ages 15 to 17 may be employed, but they must have specified hours and rest breaks. They may not be employed in hazardous occupations and activities, including those involving heavy machinery, hazardous materials, mining, or heavy physical labor, the care of children, or work within security services.

MEPIR deployed inspectors countrywide to enforce compliance with the law, including law covering child labor. The government effectively enforced applicable law, and penalties were generally sufficient to deter violations. The law provides for imprisonment, fines, or both, for companies that violate these provisions. MEPIR maintains a database on child labor. Unannounced inspections are permitted within the informal sector, but inspectors must first seek the business owners’ permission before conducting the inspection. If there is reasonable cause to believe that prior notification of an inspection will prejudice the performance of the inspector’s duties, a police officer must accompany the inspector during the inspection.

Poverty continued to influence children to migrate to urban areas for work, increasing their vulnerability to exploitation, and to work as casual laborers, often with no safeguards against abuse or injury. Child labor continued in the informal sector and in hazardous work, including work as wheelbarrow boys and casual laborers. Children engaged in hazardous work in agriculture and fishing. Commercial sexual exploitation of children occurred (see section 6, Children). Some children worked in relatives’ homes and were vulnerable to involuntary domestic servitude or forced to engage in sexual activity in exchange for food, clothing, shelter, or school fees.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.

#### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits employment discrimination and stipulates that every employer pay male and female workers equal pay for work of equal value. The law prohibits women working underground but places no other legal limitations on the employment of women. Workers may file legal complaints of sexual harassment in the workplace.

The government did not provide data on the enforcement of antidiscrimination provisions. Penalties for employment discrimination include fines and imprisonment and were, when enforced, sufficient to deter violations.

Discrimination in employment and wages occurred against women and persons with disabilities. Women generally received less pay than men for similar work. The nongovernmental Fiji Disabled People's Association reported most persons with disabilities were unemployed due in significant part to discrimination by employers.

#### **e. Acceptable Conditions of Work**

There was no official poverty-level income figure, but the minimum wage did not typically provide a decent standard of living for a worker and family. The regulations stipulate all employers must display a written national minimum wage notice in their workplace to inform employees of their rights.

MEPIR's Office of Labour Inspectorate is responsible for enforcing the minimum wage, but the inspectorate lacked capacity to enforce the law effectively. The Employment Relations Tribunal and the Employment Court adjudicate cases of violations of minimum-wage orders. Convictions for a breach of the minimum-wage law result in a fine, imprisonment, or both.

There is no single countrywide limitation on maximum working hours for adults, but there are restrictions and overtime provisions in certain sectors. The government establishes workplace safety laws and regulations.

The Occupational Health and Safety Inspectorate monitored workplaces and equipment and investigated complaints from workers. Government enforcement of safety standards suffered from a lack of trained personnel and delays in compensation hearings and rulings. Although the law excludes mines from general workplace health and safety laws, it empowers the director of mines to inspect all mines to provide for the health, safety, and welfare of employees. The Employment Relations Tribunal and the Employment Court decides compensation claims filed by the inspectorate on behalf of workers.

Unions generally monitored safety standards in organized workplaces, but many work areas did not meet standards, and the ministry did not monitor all workplaces for compliance. Workers in some industries, notably security, transportation, and shipping, worked excessive hours.